

REMARKS

Prior to this Amendment, Claims 1-49 were pending in the application, contrary to the Office Action. However, Claims 5 and 14-42 were elected in a Response to Restriction Requirement, leaving Claims 1-4, 6-13 and 43-49 as being withdrawn. Accordingly, Claims 5 and 14-42 were under examination, of which Claims 5, 14, 16 and 39 are written in independent form. It is gratefully acknowledged that the Examiner found allowable subject matter in Claims 18-37.

The Examiner rejected Claims 18-21 under 35 U.S.C. §112, first paragraph, for lack of enablement. The Examiner rejected Claims 14-15 and 39-42 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Publication No. 2004/0174845 to Koo et al. (hereinafter *Koo 1*), which is commonly owned. The Examiner rejected Claims 5, 16-17 and 38 under 35 U.S.C. §103(a) as being unpatentable over *Koo 1* in view of U.S. Patent Publication No. 2003/0198179 to Koo et al. (hereinafter *Koo 2*), which is also commonly owned.

Please amend Claims 14-17, 22-24 and 39-42, as shown, cancel Claims 5, 18-21 and 25-38, without prejudice, and add Claims 50-60. No new matter has been added. Accordingly, Claims 14-17, 22-24, 39-42 and 50-60 will be pending and under examination upon entry of this Amendment.

As to the §112, first paragraph rejection, Claims 18-21 have been cancelled. It is respectfully submitted that the rejection has been rendered moot and, as such, withdrawal of the §112, first paragraph rejection is respectfully requested.

As to the §102(b) rejection of Claims 14-15 and 39-42, the Examiner alleged that *Koo 1* teaches each and every element recited in the rejected claims.

It is respectfully noted that the applicable filing date of this application is the PCT filing date of May 10, 2004. Since *Koo 1* was published on September 9, 2004, which is not at least

one year prior to said PCT filing date, then *Koo I* cannot be applied herein under 35 U.S.C. §102(b). As such, the rejection is improper and withdrawal thereof is respectfully requested.

It is further noted that even if *Koo I* were properly applied as art under 35 U.S.C. §102, *Koo I* would fail to anticipate the rejected claims under §102, for the following reasons.

Specifically, *Koo I* teaches a communication system using an OFDM scheme. The communication system receives neighbor BS information of a plurality of neighbor BSs associated with a plurality of cells adjacent to a cell and uplink-associated information needed for transmitting data to the first BS from the first BS, requests synchronization information needed for establishing synchronization acquisition between the SS and the first BS from the first BS, monitors the plurality of neighbor BSs on the basis of the neighbor BS information associated with the neighbor BSs, and establishes a handoff with the second BS, which is one of the neighbor BSs, based on the result of the neighbor BSs.

It was alleged that *Koo I* teaches each and every element in Claim 14. In paragraph [0017] which may be the most applicable to the rejected claims, *Koo I* merely teaches that the UCD message includes Ranging backoff start and end fields, and Request backoff start and end fields. If the SS fails to execute an initial ranging process, the BS must transmit the backoff values for indicating standby time information for which the SS must wait for the next ranging process to the SS.

However, *Koo I* fails to teach determining a backoff value in the subscriber station, as recited in amended Claim 14.

Amended Claim 14 further recites “if a ranging with the base station is failed, receiving a backoff domain including backoff start information and backoff end information from the base station”.

However, *Koo 1* merely teaches in paragraphs [0065] – [0069] that when the initial ranging response message is not received from the second BS while the T3 timer is completely driven during the time of 200 ms, the SS waits for a predetermined time corresponding to a predetermined backoff value. *Koo 1* fails to teach the foregoing in amended Claim 14, however.

The foregoing also applies to Claim 39, which includes similar recitations to those in Claim 14.

Accordingly, it is respectfully submitted that amended Claim 14 is patentable over *Koo 1*. In addition, amended Claim 39 describing the subscriber station corresponding to amended Claim 14 and dependent claims of amended Claims 14 and 39 are also patentable over *Koo 1* for the same reasons as amended Claim 14.

Regarding the §103(a) rejection of Claims 5, 16-17 and 38, as previously noted, Claims 5 and 38 have been cancelled. In addition, since *Koo 1* does not qualify as prior art under §102(b), then *Koo 2* cannot cure the deficiency created by the disqualification of *Koo 1*. Accordingly, this rejection must be withdrawn.

Furthermore, even assuming *arguendo* that *Koo 1* were properly applied, it is respectfully submitted that Claims 16-17 are distinguishable over *Koo 1* for at least the foregoing reasons why Claims 14 and 39 are distinguishable over *Koo 1*, as Claim 16 includes similar recitations to those discussed in regards to Claims 14 and 39. Accordingly, and since *Koo 2* fails to cure the stated deficiencies in *Koo 1*, withdrawal of the rejection of Claims 5, 16-17 and 38 is respectfully requested.

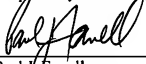
The foregoing also applies to new independent Claim 55, which includes similar recitations to those at issue in the foregoing independent claims. Early and favorable disposition on this claim, and its dependent claims, is respectfully requested.

Independent Claims 14, 16, 39 and 55 are believed to be in condition for allowance.

Without conceding the patentability per se of dependent Claims 15, 17, 22-24, and 40-42, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 15, 17, 22-24, and 40-42, is respectfully requested.

Accordingly, all of the claims pending and under examination in the Application, namely, Claims 14-17, 22-24, 39-42 and 50-60, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over a horizontal line.

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